

## CHAPTER VI

### CALCULATION OF VAT PAYABLE AND INPUT TAX CREDIT

#### 25. Calculation of VAT Payable

- (1) Subject to sub rule 2 of this rule the tax payable on a taxable turnover is calculated by applying the rate of VAT specified in the Act on the "Sale Price(s)" of the transaction.
- (2) Where the "Sale Price(s)" is inclusive of tax and the VAT payable shall be calculated by the Formula 
$$\frac{R \times \text{Sale Price}}{100 + R}$$
where R is the rate of tax.
- (3) The tax payable by a VAT dealer for a tax period shall be calculated by the Formula, X-Y where 'X' is a total of the VAT payable in respect of all taxable sales made by the VAT dealer during the tax period, and 'Y' is the total input tax credit the VAT dealer is eligible to claim in the tax period under the Act.

#### 26. Computation of Input Tax Credit

- (1) Input tax credit on the opening stock of the tax paid goods purchased between 1.4.2005 and Appointed Day —

After the commencement of the Act, where any dealer registered as a VAT dealer or where the authority prescribed registers any dealer as a VAT dealer under Rule 3, such dealer shall be eligible for Input Tax Credit as provided under Section 20 of the Act. The goods on which the input tax credit is claimed or allowed shall be available as on the Appointed Day, on stock of tax paid goods excluding the goods mentioned in Part-E of Schedule-II of the Act, and shall be admissible within nine months from the appointed date on the following conditions-

- (a) The dealer claiming such input tax credit must be registered under the Act.
- (b) The VAT dealer claiming input tax credit, shall make an inventory of all goods in hand, on the Appointed Day, which has suffered the incidence of tax under the Repealed Act, and shall file his claim for Input Tax Credit in Form JVAT 401 along with the evidences, including the purchase or sale invoice(s) and the evidences / copies of the Declaration(s) in Form IX-C issued/received under the Repealed Act.
- (c) The VAT dealer claiming Input Tax Credit, in the circumstances he is a Manufacturer or a Miner and has purchased his Inputs or the raw-materials under sub-section (1) of Section 13 of the Repealed Act, shall make an inventory of all such goods in hand, on the Appointed Day, which has suffered the incidence of tax under the Repealed Act, and shall file his claim for Input Tax Credit in Form JVAT 401 along with the evidences, including the purchase or sale invoice(s) and the evidences / copies of the Declaration(s) in Form IX issued/received under the Repealed Act.
- (d) In the circumstances, the Tax Paid Purchase Invoices reflect the amount of taxes realised and paid separately: Input Tax Credit to the extent of 100% of such amount of tax shall be admissible.
- (e) In the circumstances, the Tax Paid Purchase Invoices are inclusive of Tax, the Amount of tax shall be derived by an under-mentioned formula and Input Tax Credit to the extent of 75% of such calculated tax amount shall be admissible: -

$$\text{Tax Amount} = \frac{R \times \text{Purchase}}{100 + R}$$

Where, R is equal to "Rate of tax"; "Purchase" is "Purchase Value" or "Opening Stock Value" inclusive of tax amount. (If Rate of Tax is 10%, 'R' is 10)

- (f) The claim for such input tax credit shall be filed before the prescribed authority, within a period of thirty days from the date of commencement of the Act. The claim of such input tax credit shall be verified and allowed in Form JVAT 402, not later than a period of thirty days, from the date of receipt of Form JVAT 401.
- (g) In the circumstances, if the Input Tax Credit is claimed and availed under this sub-rule, in any manner with an intention to evade the tax payable, the same shall be treated as an offence under sub-section (7) of Section 84 of the Act.
- (h) The burden of proving, that the Input Tax Credit claimed under this sub-rule is true and correct, shall be on such dealer.

Subject to this sub-rule, if the Input Tax Credit as allowed in Form JVAT 402 and claimed in the Return(s) by such dealer, remains unadjusted from the Output Tax for that month, the same shall be carried forward for the next month(s).

- (2) Input Tax Credit on the Capital Goods.
- (a) Input Tax Credit in respect of the purchase of Capital goods on VAT Invoice by an existing Industrial Unit shall be allowed; not exceeding in thirty six equal monthly installments, from the date of commencement of taxable sales of commercial production of such Industrial Unit. The Input Tax Credit allowed shall be claimed from the first return and tax payable by such VAT dealer along with monthly VAT returns.
- (b) Subject to rule 27, the Input Tax Credit on the Capital goods of Start-up Unit shall be allowed; not exceeding in thirty six equal monthly installments from the date of commencement of taxable sale of commercial production of such Unit.

Provided if the Input Tax Credit allowed as mentioned in sub-rule (a) and (b) remains unadjusted after thirty six months, no further adjustment shall be allowed from the VAT payable by such dealers.

- (3) Input Tax Credit in respect of Goods other than mentioned in sub-rule (1) and (2).
- (a) The extent of Input Tax Credit available to a registered VAT dealer, for a tax period shall be equal to the amount of tax paid on purchases, including tax paid on entry of goods under Section 11 of the Act, as evident from the original Tax Invoice, and evidence of payment of Entry Tax, where such Invoice has been lost, on the basis of duplicate copy thereof, issued to him in accordance with the provisions of sub-rule 6 of Rule 28. Subject to the other provisions of this rule and the following conditions: -
- (i) that such dealer has maintained a true and correct separate account of Input Tax, relating to his purchases against Tax Invoices for this purpose.
- (ii) that such dealer has maintained a true and correct separate account of Output Tax, relating to his sales against Tax Invoice for this purpose.
- (b) Input Tax Credit shall not be allowed in respect of such goods, used as raw materials for manufacture of exempted goods or used as packing materials for exempted goods.
- (4) Where all the sales of a VAT dealer for that tax period are taxable, the whole of the Input Tax may be claimed as a credit excluding the tax paid on the purchase of any goods mentioned in sub-section (8) of Section 18.

Provided where goods purchased by a dealer are partly for his business use and partly for other than his business use, the amount of the Input Tax Credit shall be limited to the extent of Input Tax that relates to the goods used in his business.

- (5) (i) Where any VAT dealer buys and sells the goods in the same form, the input tax credit can be claimed fully in respect of all the taxable goods purchased for every tax period excluding the tax paid on the purchase of any goods mentioned in sub-section (8) of Section 18. Such VAT dealer is required to make a declaration in Annexure-A of Form JVAT 200 for every tax period along with tax return.
- (ii) Where any common inputs like packing material are used commonly for sales of taxable and exempt goods (goods in Schedule-I), the VAT dealer shall repay Input Tax related to exempt element of common inputs after making adjustment in the Annual Return by filing Annexure-B of Form JVAT 204 by applying a formula. The eligible Input Tax Credit for this sub-rule as well as for other transactions in this Rule shall be calculated/computed, by applying the under-mentioned formula, i.e.-

$$\frac{A \times B}{C} \quad \text{[ 'A' multiplied by 'B' and divided by 'C' ]}$$

Where -----

- (A) is the total amount of input tax paid at each tax rate for the tax period; excluding the tax paid on the purchase of any goods mentioned in negative list in Appendix-I and as defined under Section 2(xxviii).

- (B) is the "that part of turnover", which qualify for Input Tax Credit under the provisions of this Act for the respective tax period, which shall include
- (i) zero rated sales of any goods falling within the scope of sub-section (1) or (3) of Section 5 of the Central Sales Tax Act, 1956 and
  - (ii) inter-state sales of taxable goods falling within the scope of Section 3 of the CST Act,

but shall not include:

- (i) purchase price of goods taxable under Section 10 of the Act;
  - (ii) transactions falling under Section 5(2) , Section 6 A and Section 6(2) of the CST Act, 1956
  - (iii) value of transfer of a business as a whole
- (C) is the "total turnover" as defined under the Act during the period, but shall not include-
- (i) purchase price of goods taxable under Section 10 of the Act;
  - (ii) transactions falling under Section 5(2) and Section 6(2) of the CST Act, 1956; and
  - (iii) value of transfer of a business as a whole.
- (iii) This sub-rule is not applicable, if the VAT dealer is making exempt transactions.
- (6) (a) Where the value of taxable sales is 95% or more of the total value for that tax period, the VAT dealer may claim credit for the full amount of input tax paid or purchases.
- (b) Where the value of taxable sales is 5% or less of the total value, the VAT dealer shall not be eligible to claim Input Tax Credit for that tax-period.
- (c) Such a VAT dealer covered under clause (a) and (b) above, shall make an adjustment in the Annual Return for the period ending in March; in Annexure-B of Form JVAT 204. In the Annexure-B of Form JVAT 204, the eligible input tax credit shall be calculated by applying the same aforesaid formula  $A \times B / C$ . The excess input credit claimed shall be paid back or the balance input credit eligible can be claimed in the Annual Return.
- (d) This sub-rule is not applicable, if the VAT dealer is making exempt transactions.
- (7) Where any VAT dealer is able to establish that specific inputs are meant for specific output, the input tax credit can be claimed separately for taxable goods. For the common inputs, such VAT dealer can claim Input Tax Credit, for such common inputs used for taxable goods, exempt goods (goods in Schedule-I) and exempt transactions; by applying the same aforesaid formula, i.e. -

$$\frac{A \times B}{C} \quad \text{['A' multiplied by 'B' and divided by 'C']}$$

Provided the VAT dealer furnishes Annexure-A of Form JVAT 200 for each tax period for adjustment of Input Tax Credit and also makes an adjustment for a period of Twelve months ending March every year by filing Annexure-B of Form JVAT 204.

- (8) Where a VAT dealer is making taxable sales and sales of exempt goods (goods in schedule-I) for a tax period and inputs are common for both, the amount which can be claimed as input tax credit for the purchases of the goods at each tax rate shall be calculated by the same aforesaid formula, i.e. -

$$\frac{A \times B}{C} \quad \text{['A' multiplied by 'B' and divided by 'C']}$$

Provided the VAT dealer furnishes Annexure-A of Form JVAT 200 for each tax period for adjustment of Input Tax Credit and also makes an adjustment for a period of 12 months ending March every year by filing Annexure-B of Form JVAT 204.

- (9) (a) Where a VAT dealer is making sales of taxable goods and also exempt transactions of taxable goods in a tax period, for the purchases of goods taxed at 12.5%, the Input Tax to the extent of 8.5% portion can be fully claimed in the same tax period.
- (b) In respect of purchases of goods taxable at 1%, 4% and for the 4% tax portion in respect of goods taxable at 12.5%, the VAT dealer shall apply the same aforesaid formula, i.e.

$$\frac{A \times B}{C} \quad \text{['A' multiplied by 'B' and divided by 'C']}$$

for each tax period:

Provided the VAT dealer furnishes Annexure-A of Form JVAT 200 for each tax period for adjustment of Input Tax Credit and also makes an adjustment for a period of 12 months ending March every year by filing Annexure-B of Form JVAT 204.

- (10) (a) Where a VAT dealer is making sales of taxable goods, exempt sales (goods in Schedule I) and also exempt transactions of taxable goods in a tax period, for the purchase of goods taxed at 12.5%, the input tax to the extent of 8.5% portion can be provisionally fully claimed in the same tax period;
- (b) In respect of purchases of goods taxable at 1%, 4% and for the 4% tax portion in respect of goods taxable at 12.5%, the VAT dealer shall apply the same aforesaid formula, i.e. -

$$\frac{A \times B}{C} \quad \text{['A' multiplied by 'B' and divided by 'C']}$$

for each tax period:

Provided the VAT dealer furnishes Annexure-A of Form JVAT 200 for each tax period for adjustment of Input Tax Credit and also makes an adjustment for a period of twelve months ending March every year by filing Annexure-B of Form JVAT 204.

- (11) (a) In the case of a VAT dealer filing Annexure-B of Form JVAT 204, the excess Input Credit claimed including 8.5% portion provisionally claimed for sales of exempt goods shall be paid back or the balance input credit eligible can be claimed in the Annual Return for period ending March:
- (b) For the purpose of this rule, the words A, B and C in the formula shall be same as specified in clause (ii) of sub-rule (5) of this Rule, i.e. -

$$\frac{A \times B}{C} \quad \text{['A' multiplied by 'B' and divided by 'C']}$$

- (c) Where a VAT dealer makes exempt transactions, for the calculation of input Tax Credit, in excess of input tax of 4% of 12.5% rate of goods, "the value of B" shall include the value of the goods transferred outside the State otherwise than by way of sales (transaction falling under Section 6-A of the CST Act 1956).
- (d) For the purpose of sub-rules from (5) to (10) of this Rule, the value of A is the amount of Input Tax relating to common inputs at each tax rate separately, B is the taxable turnover, i.e. that part of turnover eligible for Input Tax Credit and C is the total turnover. For the purpose of Annexure-A of Form JVAT 200, the value of A, B and C would be for that tax period whereas for the purpose of Annexure-B of Form JVAT 204, the values of A, B and C would be the values for the period of twelve months ending March including March.
- (e) Any VAT dealer opting for any method of Input Tax Credit calculation specified from sub-rule (5) to sub-rule (10) shall be required to be under only one method for twelve months period ending March. The method of adjustment to be made in the Annual Return for the period ending March, shall be on the basis of preceding option exercised by the dealer upto March.
- (12) In circumstances where, from sub-rule (4) to (11) of this Rule, does not give a fair apportionment, the VAT dealer may use an alternative method where four separate records have to be maintained:
- (a) a record of the purchase of taxable goods intended for taxable sales;
- (b) a record of the purchase of taxable goods intended for exempt sales;
- (c) a record of the purchase of taxable goods intended for exempt transactions;
- (d) a record of the purchase of taxable goods where the purchases cannot be related to either taxable or exempt sales or exempt transactions with this method:
- (i) all the tax charged in (a) above can be claimed as input tax;
- (ii) none of the tax charged in (b) above can be claimed as input tax;
- (iii) in the case of the tax charged in (c) above the provision of sub-rule 8, 9, 10 shall be applicable.

- (13) (a) Where a VAT dealer has declared exempt sales and or exempt transactions for any tax period of one financial year, he shall, in the Annual Return, make a calculation in accordance with from sub-rule 7 to 11 of this rule as the case may be for the preceding twelve months.
- (b) In the case of cancellation of the registration of a VAT dealer the final calculation and adjustment shall be made for the period outstanding since the last adjustment.
- (14) The alternative methods of computing Input Tax Credit shall be verified and approved by the Prescribed Authority, and the VAT dealers shall claim Input Tax Credit after such approval.
- (15) Reverse Tax Credit – (a) Where Input Tax Credit has already been availed by a registered dealer against the purchase of goods, under sub-section (4) of Section 18, and a part of which is, however, used in manufacturing of such goods: which are exempted from Tax; the Input Tax Credit, so availed for that part of the goods, shall be deducted from the Input Tax Credit already availed for that tax period under sub-section (9) of Section 18, in which such event takes place.
- (b) Where there is a negative Input Tax Credit for a tax period, as a result of deductions made under sub-rule (1), the excess Input Tax Credit availed of, shall by order in Form JVAT 308, be demanded as if it was a tax due under the Act from the dealer, and it shall be recovered as an arrear of tax under the provisions sub-section (7) of Section 43.
- (c) Where the goods purchased by a registered dealer from another registered dealer, are returned to the selling dealer and necessary adjustment is made in their respective accounts, the purchasing dealer shall "Reverse" the Input Tax Credit already availed by him for purchase of such goods, subsequently returned.
- (d) Where a registered dealer fails to keep separate account of purchase of goods for the purpose of determining "Reverse Tax Credit" under sub-rule (1), the Input Tax Credit already availed shall be reversed in the following manner: -
- (i) In case of a registered dealer manufacturing both taxable goods and exempted goods for sale, reverse tax shall be calculated as under: -

***U x V***

$$X = \frac{U \times V}{W}$$

***W***

- Where 'X' is the amount of the Input Tax Credit, which is to be reversed.
- 'U' is the amount of the Input Tax Credit, already availed during the tax period.
- 'V' is the total sale value of manufactured goods, exempt from tax in that tax period.
- 'W' is the total sale value of goods manufactured in that tax period.

- (ii) In case of a registered dealer selling taxable goods, a part of which is damaged, or destroyed, reverse Tax Credit shall be calculated as under: -

***U x V***

$$X = \frac{U \times V}{W}$$

***W***

- Where 'X' is the amount of the Input Tax Credit, which is to be reversed.
- 'U' is the amount of the Input Tax Credit, already availed during the tax period.
- 'V' is the total estimated sale value of goods, damaged or destroyed in that period.
- 'W' is the total sale value of goods including the sale value of 'damaged or destroyed' goods during that tax period.

## **27. Input Tax Credit on Capital Goods**

- (1) A dealer claiming input tax under Section 18, in respect of capital goods, as defined under clause (x) of Section 2, shall, apply in Form JVAT 118 to the Prescribed Authority within thirty days of commencement of commercial production or sale of taxable goods or at the time of applying Registration under Section 25 of the Act.
- (2) The Prescribed Authority shall review such application to ensure that it contains all the information required and inform the dealer within one month from the date of receipt of the application that it was received within the prescribed time, and where it is not satisfied that the

particulars contained in the application are correct and complete, and after giving the dealer a reasonable opportunity of being heard, it shall reject the application for reasons to be recorded in writing.

(3) The Prescribed Authority shall inform the dealer eligible for Input Tax Credit in Form JVAT 406 within thirty days of receipt of an application, which is correct and complete.

(4) Deduction of input tax under Section 18 shall be subject to the following conditions.-

(a) In the case of a dealer selling goods in the course of export out of the territory of India and the capital goods are used for the sale of such goods, wholly or partially, the deduction shall be allowed in the month in which such sales are first made.

(b) In other cases the deduction shall be apportioned in equal monthly

instalments over a period of three years from the date indicated in Form JVAT

118 during which period the capital goods are used for the business of taxable

goods, wholly or partially.

(c) Where there is a change in use of the capital goods from sale of exempt goods or non-taxable transactions to sale of taxable goods wholly or partially, the value of capital goods eligible for Input Tax Credit shall be calculated on the basis of a formula as per sub-rule (5)(ii) of Rule 26.

(d) The deduction shall be claimed by the dealer in his monthly return.

(e) No deduction of input tax shall be allowed where the use of capital goods relates wholly to the sale of exempt goods, other than when such goods are sold in the course of export out of the territory of India.

(f) Where the use of capital goods relates to both the sale of goods in the course of export out of the territory of India or sale of taxable and exempt goods and also to taxable goods that are disposed otherwise than by way of sale or non-taxable transactions, the deductible element of input tax shall be calculated on the basis of the formula as per sub-rule (5)(ii) of Rule 26 or as specified by the Prescribed Officer.

(5) (a) Where there is a change in use of the capital goods, after the claim and for Input Tax Credit has been allowed, and the dealer is no longer eligible for such Input Tax Credit, the dealer shall inform the Prescribed Authorities within ten days of such change in use.

b) The Prescribed Authority shall inform the dealer in Form JVAT 307 that he is no longer eligible for the input tax rebate under the scheme with effect from the end of the month preceding the month in which such change of use occurred.

6) Where the capital goods are sold within a period of three years from the date of the commencement of commercial production or sale of taxable goods or sale of any goods in the course of export out of the territory of India,-

a) the purchasing dealer may claim the full input tax in his next return where the sale price falls below the notified value, or claim input tax under the provisions of this Rule; and

b) the selling dealer shall pay full tax on such sale.

(7) Where the capital goods are disposed of otherwise than by way of sale within a period of three years from the date of the commencement of commercial production or sale of taxable goods or sale of any goods in the course of export out of the territory of India the dealer shall pay tax calculated on the prevailing market value of such goods at the time of such disposal.